

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GARY LA BARBERA, LAWRENCE KUDLA,
THOMAS GESUALDI, LOUIS BISIGNANO,
FRANK FINKEL, JOSEPH FERRARA, FRANK
DIMENNA, and ROBERT CARLINO as
Trustees and Fiduciaries of the
Local 282 Welfare, Pension, Annuity
and Job Training, Vacation and Sick
Leave Trust Funds,

Plaintiffs,

against

ORDER ADOPTING REPORT
06-CV-2100 (JS) (WDW)

D&R MATERIALS, INC.,

Defendant.

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Appearances:

For Plaintiff: Nathan V. Bishop, Esq.
Friedman & Wolf
1500 Broadway, Suite 2300
New York, New York 10036

For Defendant: No Appearance

SEYBERT, District Judge:

On May 5, 2006, Plaintiffs commenced this action to enforce trust and collective bargaining agreements they had with Defendant. On October 26, 2006, Plaintiffs moved for a default judgment against Defendant. On October 27, 2006, the Clerk of the Court filed a certificate noting Defendant's default.

Pursuant to Rules 55 and 73 of the Federal Rules of Civil Procedure and Rule 72.2 of the Local Civil Rules for the Eastern District of New York, the Court referred the motion for default judgment to Magistrate Judge William D. Wall on November 6, 2006. On February 1, 2006, the Magistrate filed a Report and

Recommendation, in which he recommended the following: (1) that a default judgment be entered against Defendant, (2) that this Court order Defendant to produce to Plaintiffs for audit various records for the period beginning March 27, 2004 until May 31, 2004, (3) that if Defendant fails to submit such records for audit, the Court award Plaintiff the delinquent contributions, interest and liquidated damages, and (4) whether Defendant submits records for audit, Plaintiff be awarded costs and attorneys' fees. On February 2, 2007, Plaintiffs served Defendant with a copy of the Report and Recommendation.

The Court has reviewed the Report and Recommendation, and no party has objected to it. As no party has objected to the Report and Recommendation, all objections are deemed waived. See 28 U.S.C. § 636(b)(1); FED R. CIV. P. 72; Beverly v. Walker, 118 F.3d 900, 902 (2d Cir. 1997); Savoie v. Merchants Bank, 84 F.3d 52, 60 (2d Cir. 1996).

Accordingly, the Court ADOPTS the Report and Recommendation in its entirety. The Clerk of the Court is ordered to enter a judgment of default against Defendant and award Plaintiff attorneys' fees and costs in the amount indicated in the Report and Recommendation. The Court further orders Defendant to submit to Plaintiffs for audit the following records: payroll records, payroll tax records, business tax returns, cash disbursement records, general ledgers and truck hiring records for

the period March 27, 2004 to May 31, 2006. If Defendant does not submit such records within thirty (30) days from the date of this Order, the Clerk of the Court shall enter a judgment in the amount indicated in the Report and Recommendation.

SO ORDERED.

15 JOANNA SEYBERT

Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
April 3, 2007